

U.S. Patent Application Serial No. 10/776,379
Response filed May 19, 2006
Reply to OA dated February 28, 2006

REMARKS

Claims 1 and 2 have been amended, and claim 5 has been canceled (claims 3 and 4 having been canceled earlier) in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention. The applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated February 28, 2006.

Claims 1 and 2 are currently pending in this patent application, claims 1 and 2 being independent claims.

The rejection of claims 1 and 2, found in the previous Office Action, has been withdrawn. However, the Examiner now rejects claims 1 and 2 on two newly cited references. The rejections are discussed below.

Claim 1 is rejected under 35 USC §112, second paragraph, for the reason set forth on page 3 of the outstanding Action.¹ Here, the Examiner has taken the position that it is not clear, in the

¹ Although the Examiner refers solely to claim 1 in this rejection, it appears as though claim 2 should have also been included because the language of concern to the Examiner is

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claim language, what discharge the applicant refers to because a discharge is not defined in the claim language. The applicants respectfully request reconsideration of this rejection.

As indicated above, claims 1 and 2 have been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention, and in order to correct certain informalities therein, including those pointed out by the Examiner.

The applicants further note that a basis for the claim amendment is found at least in the applicants' Fig. 6 in which the desired form is a rectangle (center of drawing), having a straight line part, and the periphery of the partial reflecting portion 26 has a straight line part in a direction parallel with the straight line part of the desired form. In the applicants' Fig. 6, the two straight line parts coincide.

In view of the above, the withdrawal of the outstanding indefiniteness rejection under 35 USC §112, second paragraph, is in order, and is therefore respectfully solicited.

identical in both claims.

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As to the merits of this case, first, claim 1 is rejected under 35 USC §102(e) as being anticipated by Ariga (U.S. Patent No. 6,785,319). The applicants respectfully request reconsideration of this rejection.

The Examiner alleges that in Ariga's light shielding elements (37A) - (37C) correspond to the claimed "optical element", that light shielding sections (49A) - (49C) correspond to the claimed "total reflecting portion", and that light transmitting sections (47A) - (47C) correspond to the claimed "non-reflective portion".

The cited reference discloses the claimed invention as what appears to be a highly reflective surface on light shielding sections (49A) - (49C) is discussed at column 8, lines 11 - 19 in Ariga.

In Ariga, it is intended that undesired laser light 11A, reflected from the light shielding sections (49A) - (49C), not return to the discharge area, as discussed at col. 7, lines 19-45 in Ariga. In the applicants' instant claimed invention, it is desired that such reflected light return to the discharge area to become recycled laser light 11B, as discussed at page 17, line 22 to page 18, line 2 of the applicants' specification in order to improve the efficiency of the laser device.

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Accordingly, in order to further distinguish the claimed invention over the teachings of the cited prior art, the applicants have amended claim 1 so as to highlight that the total reflecting portion returns the laser light to the amplifying section of the laser device. Accordingly, the claimed invention is not anticipated by Ariga because not all of the claimed elements, as now recited in claims 1 and 2, are found in exactly the same situation and united in the same way to perform the identical function in Ariga's device.

In view of the above, the withdrawal of the outstanding anticipation rejection under 35 USC §102(e) based on Ariga (U.S. Patent No. 6,785,319) is in order, and is therefore respectfully solicited.

Second, claim 2 is rejected under 35 USC §103(a) as being obvious over Ariga in view of Rippel (U.S. Patent No. 5,066,990). The applicants respectfully request reconsideration of this rejection.

The applicants submit that, pursuant to MPEP §§ 706.02(l)(1) and 706.02(l)(2), the Ariga patent owned by Komatsu Ltd. is disqualified as prior art against the applicants' instant claimed invention because the Ariga subject matter and the applicants' instant claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment

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to the same person [Komatsu Ltd.].” As such, the suggested combination of Ariga in view of Rippel should similarly fail.

Accordingly, the withdrawal of the outstanding rejection under 35 USC §103(a) based on Ariga in view of Rippel (U.S. Patent No. 5,066,990) is in order, and is therefore respectfully solicited.

Third, claim 5 is rejected under 35 USC §103(a) as being unpatentable over Takenaka (U.S. Patent No. 5,506,858). The applicants respectfully request reconsideration of this rejection.

As indicated above, claim 5 has been canceled without prejudice or disclaimer. Thus, the outstanding rejection of claim 5 is now moot.

Accordingly the withdrawal of the outstanding obviousness rejection under 35 USC §103(a) based on Takenaka (U.S. Patent No. 5,506,858) is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

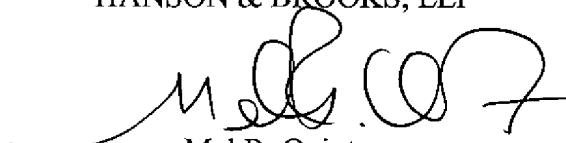
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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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